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**SOURCEBOOK ON
MEDICAL JURISPRUDENCE**

Professor B.M. Dickens

1996/97

**FACULTY OF LAW
UNIVERSITY OF TORONTO**

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PART I

COURSE OUTLINE

Medical Jurisprudence is offered as a lecture course, but its structure is kept loose in order to accommodate class discussion and/or seminar presentations from interested students. Students are encouraged, but not required, to give seminars; those writing term papers may find it useful to present their work in progress to the rest of the class for comment, perspective and provisional assessment. **Evaluation** in the course will be based on the term paper (which satisfies the law school's writing requirement), on a final examination or on a take-home assignment, at the student's option. In exceptional circumstances a longer term paper, for three hours' credit, can be arranged.

Students are advised to pay careful initial attention to the lists of recent articles that follow (Part II, infra.). They indicate significant topics addressed in the literature and the thematic dimensions of medical jurisprudence itself, disclosing well-trodden paths still worthy of pursuit, new matters coming to attention and points of interest available for further exploration. The whole list should be read soon after acquisition. It is divided into subject areas, but they are only general and provisional. Most articles affect a number of issues and may be of use in a number of differently directed studies.

A firm sequence of topics to be addressed in class cannot be predetermined; much will depend on the interests of class members and on the subjects chosen for any seminar presentations. The sequence below may, however, serve as a loose model.

- medical negligence and malpractice -- background issues
- malpractice litigation and the law
- informed patient decision-making
- medical treatment of minors
- confidentiality
- the right to die: natural death, non-treatment decisions (defective newborns, severely injured patients, etc.)
- legally protected life, wrongful birth and wrongful life
- criteria for the determination of death: brain death
- medical experimentation
- transplantation law and the control of body materials
- reproduction control, including contraception, sterilization and abortion
- reproduction promotion, including artificial insemination, "test tube" fertilization, surrogate motherhood and embryo transplantation
- acquired immunodeficiency syndrome (AIDS) and HIV infection.
- genetic knowledge: developments, applications and implications

PART II

REFERENCES

PART II

REFERENCESARTICLES

For convenience, articles are grouped under nine topic headings, but **most articles are relevant to two or more headings**. A brief definition of the types of articles under each topic heading is provided below. However, reference to a specific subject should not be confined only to one topic heading. Articles preceded by the notation [incl.] are included in these materials.

Topics

1. Standard of Care and Malpractice: general articles on medicine and the law; types of liability and duty; who may be liable for malpractice.
2. Consent: the modern law of "informed consent; substitute consent; right to refuse treatment (excluding life-saving treatment); rights of minors; experimentation.
3. Confidentiality: access to medical records, immunity and privilege.
4. Right to Die: right to refuse life-saving treatment; euthanasia.
5. Mental Health: rights of the mentally incompetent; substitute consent; involuntary committal and sterilization; behaviour modification; psychiatric damage.
6. Genetics and Eugenics: policy proposals and legislation; population policy; "wrongful life" and "wrongful birth" actions.
7. Time Factors: Brain death; rights of the unborn; limitation periods; evidence.
8. Biotechnology: New reproductive technology; organ transplants; transsexual surgery; new micro-organisms.
9. Acquired Immunodeficiency Syndrome (AIDS)

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